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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/515,905	02/29/2000	Hiroki Nakazono	25484.00797	1411

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MORRISON & FOERSTER, LLP
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EXAMINER

HUYNH, BA

ART UNIT	PAPER NUMBER
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2173

DATE MAILED: 05/28/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/515,905

Applicant(s)

NAKAZONA ET AL.

Examiner

Ba Huynh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

BA HUYNH
PRIMARY EXAMINER

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent #5,908,997 (Arnold et al).

- As for claims 1, 3, 4: Arnold et al teach a data set selecting apparatus connectable to a plurality of external storage devices (5:56-63; 21:42-49), each storage device including a plurality of storage areas being correspondingly allotted to each of a plurality data groups and storing a plurality of data set that belong to the allotted data group (21:50 – 22:4), the apparatus comprising:

a display screen (figure 15)

a storage device selector for selecting a storage device from the plurality of stage devices (21:50-55; 24:35-40),

a plurality of data group selection controls (21:55 – 4; 24:40-42),

a data group allocator for individually allocating, to each of the plurality of data group selecting controls, each of the data groups corresponding allotted to each of the plurality of storage areas included in the storage device selected by the storage device selector, wherein the plurality of data group selecting controls are capable of selecting the allocated data groups (22:65 – 23:14; 24:43-67)

a display controller which causes the display screen to list a plurality of identifiers (album and song names) each representing each of the data set allotted to the selected data group (see explanations of figures 15, 22-27),

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a plurality of data set selecting control buttons 372, 374, each of which is correspondingly allocated for each of the identifiers and selects a data set from among the data sets correspondingly represented by the identifiers according to user's selection of the identifiers. See explanation of figures 15, 22-27.

Arnold et al fail to teach that the data set selecting controls are three-dimensional controls located separately and outside of the display screen and each of which are correspondingly located near the allocated identifier listed, however suggested that other user control interfaces which include different type of actuation inputs can be implemented (16:5-13). Official notice is taken that implementation of three dimensional control buttons located separately outside of the display screen and correspondingly located near the identifiers is well known in the art of computer interface (see US patent 5,398,045, figure 1, and US patent #5,956,034, figure 2A for the implementations of 3D mechanical buttons, and US patents #5,734,719 and #5,963,916 for 3D graphical buttons). It would have been obvious to one of skill in the art, at the time the invention was made, to combine the well known implementation of three-dimensional control buttons as claimed to Arnold et al. Motivation of the combining is for the advantage of simplicity, reliability and/or avoiding the cost of additional input device such as mouse, stylus, or touchscreen.

- As for claim 2: The apparatus includes a graphical control panel 200, wherein the display screen 374 and the data group selecting control are provided on the control panel 200.

Response to Arguments

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2. Applicant's arguments with respect to claims 1-4 have been considered but are not deemed persuasive.

REMARKS:

In response to the argument that the cited prior art do not teach the selecting a storage device from a plurality of storage devices, wherein each of the storage include a plurality of storage areas, and wherein each storage area is allotted to a plurality of data groups that store a plurality of data set, the limitation is disclosed by Arnold et al as set forth in the rejection (see 21:50-55; 24:35-67). The data group selection control is disclosed by Arnold in 21:55 – 4 and in 24:40-42. The data group allocator is disclosed in 22:65 – 23:14 and 24:43-67.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). In this case, Arnold clearly suggests that interfaces other than the touch screen, mouse, and stylus, can be implemented for input actuation (16:5-13). Cited patent #5,398,045 favors the implementation of mechanical buttons interface over mouse input interface (1:24-40). Mechanical buttons is known for its simplicity, reliability, and low cost. It would have been obvious to one of skill in the art, in light of the teachings, to implement the 3D buttons as claimed.

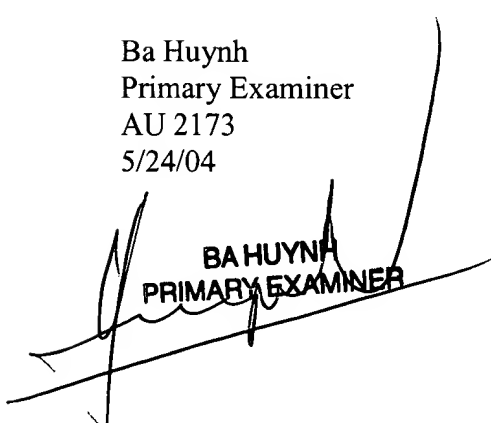
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3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ba Huynh whose telephone number is (703) 305-9794. The examiner can normally be reached on Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca can be reached on (703) 308-3116. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3800.

Ba Huynh
Primary Examiner
AU 2173
5/24/04


**BA HUYNH
PRIMARY EXAMINER**